

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ALOFT MEDIA, LLC,	§
	§
Plaintiff,	§
	§ Civil Action No. 6:09-cv-304
v.	§
	§
ORACLE CORPORATION, et al.	§ JURY TRIAL DEMANDED
	§
Defendants.	§
	§
	§

**PLAINTIFF ALOFT MEDIA, LLC'S ANSWER TO
DEFENDANT SCOTTRADE, INC.'S ANSWER AND COUNTERCLAIMS
TO SECOND AMENDED COMPLAINT**

Plaintiff Aloft Media, LLC (“Aloft”) responds to each of the numbered paragraphs of the counterclaims of Scottrade, Inc. (“Scottrade”), as set forth in its answer to Plaintiff’s Second Amended Complaint for Patent Infringement as follows:

COUNTERCLAIMS

49. Aloft admits that Scottrade purports to incorporate by reference paragraphs 1 through 48 of its answer and affirmative defenses but denies the allegations in those paragraphs unless specifically admitted herein.

PARTIES

50. Admitted.

51. Admitted.

Jurisdiction and Venue

52. Aloft admits that this Court has subject matter jurisdiction, otherwise denied.

53. Admitted.

54. Admitted.
55. Admitted.
56. Denied.
57. Denied.
58. Denied.
59. Denied.
60. Aloft admits that a controversy exists for purposes of declaratory judgment jurisdiction but denies that Scottrade's counterclaims have any merit whatsoever.

Count One – Declaratory Relief Regarding Non-Infringement of ‘898 Patent

61. Aloft admits that Scottrade re-alleges the allegations of the previous paragraphs of its counterclaims, but Aloft denies the allegations in those paragraphs unless specifically admitted herein.
62. Denied.
63. Denied.
64. Denied.
65. Aloft admits that an actual controversy exists for purposes of declaratory judgment jurisdiction but denies that Scottrade's counterclaims have any merit whatsoever.
66. Aloft admits that Scottrade seeks a declaratory judgment of non-infringement but denies that Scottrade's counterclaims have any merit whatsoever.

Count Two – Declaratory Relief Regarding Non-Infringement of ‘910 Patent

67. Aloft admits that Scottrade re-alleges the allegations of the previous paragraphs of its counterclaims, but Aloft denies the allegations in those paragraphs unless specifically admitted herein.

68. Denied.
69. Denied.
70. Denied.
71. Aloft admits that an actual controversy exists for purposes of declaratory judgment jurisdiction but denies that Scottrade's counterclaims have any merit whatsoever.
72. Aloft admits that Scottrade seeks a declaratory judgment of non-infringement but denies that Scottrade's counterclaims have any merit whatsoever.

Count Three – Declaratory Relief Regarding Invalidity of ‘898 Patent

73. Aloft admits that Scottrade re-alleges the allegations of the previous paragraphs of its counterclaims, but Aloft denies the allegations in those paragraphs unless specifically admitted herein.

74. Denied.
75. Denied.
76. Aloft admits that an actual controversy exists for purposes of declaratory judgment jurisdiction but denies that Scottrade's counterclaims have any merit whatsoever.

77. Aloft admits that Scottrade seeks a declaratory judgment of invalidity but denies that Scottrade's counterclaims have any merit whatsoever. To the extent that Scottrade's reference to the “unenforceability” of the ‘898 patent is intended to raise a counterclaim based upon inequitable conduct, Scottrade's claim is not pled with the specificity required by F.R.C.P. 9 and should be dismissed.

Count Four – Declaratory Relief Regarding Invalidity of ‘910 Patent

78. Aloft admits that Scottrade re-alleges the allegations of the previous paragraphs of its counterclaims, but Aloft denies the allegations in those paragraphs unless specifically admitted herein.

79. Denied.

80. Denied.

81. Aloft admits that an actual controversy exists for purposes of declaratory judgment jurisdiction but denies that Scottrade's counterclaims have any merit whatsoever.

82. Aloft admits that Scottrade seeks a declaratory judgment of invalidity but denies that Scottrade's counterclaims have any merit whatsoever. To the extent that Scottrade's reference to the "unenforceability" of the '910 patent is intended to raise a counterclaim based upon inequitable conduct, Scottrade's claim is not pled with the specificity required by F.R.C.P. 9 and should be dismissed.

Aloft denies that Scottrade is entitled to any relief, and specifically denies that Scottrade is entitled to any of the relief requested in paragraphs A-M of Scottrade's Prayer for Relief.

DEMAND FOR JURY TRIAL

Aloft Media, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: December 30, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by facsimile transmission and/or first class mail this 30th day of December, 2009.

/s/ Connie Kuykendall